

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2001-120-C - ORDER NO. 2001-1005
OCTOBER 15, 2001

IN RE: Application of Ciera Network Systems, Inc.)
for a Certificate of Public Convenience and)
Necessity to Provide Intrastate Resold)
Telecommunications Services within the State)
of South Carolina and for Alternative)
Regulation.)

ORDER GRANTING
CERTIFICATE *VOJ*

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Ciera Network Systems, Inc. (“Ciera” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate resold telecommunications services between and among locations within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 2000), S.C. Code Ann. § 58-9-520 (Supp. 2000) and the rules and regulations of the Public Service Commission of South Carolina.

The Commission’s Executive Director instructed Ciera to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Ciera’s Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A hearing was convened on September 6, 2001, at 11:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. Bonnie D. Shealy, Esquire, represented Ciera. Robert Livingston, Chief Executive Officer and Secretary, testified on behalf of the Company. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff. Vivian Dowdy, Auditor, and David S. Lacoste, Engineer, testified on behalf of the Commission Staff.

Livingston presented testimony regarding the types of telecommunications services Ciera proposes to offer in South Carolina in addition to managerial, technical, and financial resources of the Company. As Chief Executive Officer and Secretary of Ciera, Livingston has primary responsibility for managing all phases of the Company's growth and directions. Ciera was incorporated on December 28, 1998, under the laws of the State of Texas. The Company has registered to do business in South Carolina with the South Carolina Secretary of State.

The Company seeks to offer direct-dialed, inbound toll-free service, travel card and directory assistance services within the State of South Carolina. Ciera will target its marketing efforts towards residential and business customers. The Company's intrastate telecommunications services will be offered in conjunction with its interstate service. Additionally, Ciera will utilize various underlying carriers to provide service – its underlying carriers are MCI/WorldCom, Qwest, and Global Crossings. Customers of Ciera will receive bills rendered by Ciera with the Company's toll-free call customer service number imprinted on each bill.

According to the testimony, Ciera has received certification or registered to provide resold interexchange services in several states including California, Delaware, Minnesota, and New York. Additionally, the Company is in the process of filing interexchange applications in the remaining states where it is not currently authorized to provide interexchange services. The testimony also reveals Ciera is authorized to provide competitive local exchange carrier services in Arkansas, California, Colorado, Florida, Illinois, Kansas, Kentucky, Massachusetts, Missouri, New York, Pennsylvania, Texas, and Wisconsin. Livingston testified Ciera has never been denied authority to provide telecommunications services by any regulatory body nor has a regulatory authority revoked the Company's certification to provide telecommunications services.

Regarding the Company's managerial resources to offer telecommunications services in South Carolina, the testimony reveals Ciera possesses sufficient managerial, technical, and marketing and administrative experience to operate as a reseller within South Carolina. Livingston has over twenty-one years of experience in the telecommunications industry. He formed Ciera in March 1999 to offer CLEC services to small business and residential customers throughout the United States. Livingston was employed by other telecommunications companies prior to becoming employed with Ciera: Wireless Communications Technology, Inc., GST Telecommunications, Texas-Ohio Communications, and Centel Business Systems. Robert Serrett is the Company's Vice President of Sales & Marketing. Serrett has twenty-two years experience in the telecommunications business and twelve years of management experience with

responsibilities for operating, maintaining, and supervising staff for various large corporations.

Regarding the Company's financial ability to offer telecommunications services, with respect to South Carolina, Livingston testified minimal capital investment is required from Ciera for entering the South Carolina market. The Company's cost would be limited to the cost of certification and initial marketing. The testimony also reveals that additional costs incurred by Ciera for South Carolina customers will be incremental per-call costs assessed by its underlying carriers for switching and transporting calls. The Company plans to recover these costs in the rates charged to its customers. Livingston also responded to comments made by Staff witness Dowdy regarding the Company's source of working capital. According to Livingston, the Company anticipates overcoming its negative net worth by increasing revenue through an aggressive marketing program and seeking an equity infusion of approximately \$27,000,000. CCC GlobalCom, the parent company of Ciera, is currently negotiating with several investment banking groups regarding the equity infusion.

The Company also requests that the Commission regulate its interexchange business services, consumer card, and operator services in accordance with the principles and procedures established for alternative regulation in Order Nos. 1995-1734 and 1996-55 in Docket No. 1995-661-C, which was approved for AT&T and other similarly situated companies. Additionally, Ciera seeks an exemption from any Commission policy that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts. According to the testimony, Ciera maintains its books

in accordance with Generally Accepted Accounting Principles; and therefore, does not possess the detailed cost data required by the Uniform System of Accounts. The Company also requests a waiver of 26 S.C. Code Ann. Regs. 103-610, which requires carriers to keep all records required by the Commission's rules and regulations within the State of South Carolina. The Company's corporate offices are in Texas and the testimony reflects the Company's desire to maintain its books and records in Texas. The Company will have a registered agent in South Carolina and will bear any costs associated with the Commission's inspection of its books and records.

Lacoste testified that he reviewed the application and tariff of Ciera. In Lacoste's opinion, the terms and conditions indicated within the proposed tariff are well stated in that they appear to be generally consistent with the Commission's rules and regulations governing telecommunications utilities and other certified carriers. Lacoste did recommend one change to the Company's tariff which appeared to be a typographical error concerning the Company's proposed travel card rate.

Dowdy presented testimony regarding the Company's financial statements. The revised balance sheet as of May 31, 2001, indicated cash made up 2.72% of total assets. The current ratio for this period is 2.74, which indicates there were sufficient current assets to meet all current liabilities.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Ciera is organized as a corporation under the laws of the State of Texas and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Ciera operates as a reseller of interexchange services and wishes to provide its services in South Carolina.

3. Ciera has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Ciera to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Ciera for its resale of residential interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Ciera shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. Ciera shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 2000).

4. If it has not already done so by the date of issuance of this Order, Ciera shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. Ciera is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Ciera shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Ciera changes underlying carriers, it shall notify the Commission in writing.

8. Ciera shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's web site at www.psc.state.sc.us/forms. The title of this form is "Annual Information on South Carolina Operations For Interexchange Companies and AOS". Be advised that the Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses. Ciera shall also file with the Commission a copy of its general bill form as required by 26 S.C. Code Ann. Regs. 103-612.2.2 and 103-622 (1976 and Supp. 2000).

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Ciera shall file the names, addresses and telephone numbers of these representatives with the

Commission within thirty (30) days from receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s web site at www.psc.state.sc.us/forms; this Form shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

10. With regard to the origination and termination of toll calls within the same LATA, Ciera shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dial parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. The Company’s request for a waiver of S.C. Code Ann. Regs. 103-610 is granted. Ciera is granted permission to maintain its books and records required under Regulation 103-610 at its principal place of business in Texas. Additionally, the Company’s request to use Generally Accepted Accounting Principles to maintain its financial records is granted. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

12. With respect to business service offerings, credit card services, operator services, and customer network offerings, tariffs are not required to state maximum rates and tariff filings will be presumed valid upon filing. If the Commission institutes an

investigation of a particular filing within seven (7) days, then the tariff filing will be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to Ciera also.

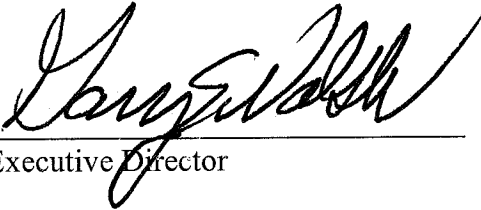
13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)